IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 46 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE D.H.WAGHELA

Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

1 to 5 No

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BHAVSAR DARSHNABEN BHADRESH- KUMAR AND D/O CHUNILAL KALIDAS

Versus

REGIONAL PASSPORT OFFICER

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Appearance:

MR MA SAPA for Petitioner

MR ANANT S DAVE for Respondent No. 1

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CORAM : MR.JUSTICE D.H.WAGHELA

Date of decision: 10/01/2001

ORAL JUDGEMENT

1. Heard Mr.M.A.Sapa, learned counsel appearing on behalf of the petitioner and Mr. Anant S. Dave, learned Additional Central Government Standing Counsel for the respondent. RULE. Learned counsel Mr. Anant S. Dave

for the respondent waives service of Rule.

2. The petitioner has filed this petition under Article 226 of the Constitution of India with a prayer to direct the respondent - Regional Passport Officer, Ahmedabad to issue passport to her according to the birth certificate issued by Gram Panchayat, Khathlal, Tal. Kapadvanj, Dist. Kheda. It is submitted that the application to issue passport made to the respondent was returned as the date of birth of the petitioner in her School Leaving Certificate is shown to be 24.6.1967 whereas her date of birth in the Birth Certificate is shown to be 24.8.1967. The learned counsel for the petitioner submitted that there was an error in recording the date of birth of the petitioner at the time of admission in the school and that error continued thereafter. It is also submitted that the petitioner has obtained the Birth Certificate from Kathlal Gram Panchayat, Tal. Kapadwanj, Dist. Kheda, according to which, the date of birth of the petitioner is 24.8.1967. The learned counsel further submitted that when there is a conflict in the date of birth between the School Leaving Certificate and the Birth Certificate issued by the Registrar, Births and Deaths, then the certificate issued by the Gram Panchayat should be preferred.

3. Having regard to the certificate at Annexure-B, which is the Birth Certificate issued by Kathlal Gram Panchayat, Tal. Kapadwanj, Dist. Kheda, I am of the view that the respondent authority should have considered the same for issuing the passport to the petitioner. However, the petitioner may file all the relevant documents before the respondent Regional Passport Officer and if such documents are filed, the respondent shall consider the same and issue the passport to the petitioner in accordance with law. Since the date of birth of the petitioner is different in her School Leaving Certificate than the date recorded in her Birth Certificate, the respondent cannot be held responsible for such error. Therefore, the petitioner shall pay a sum of Rs.1,500/- (rupees one thousand five hundred) only to the respondent for issuing passport to the petitioner according to her Birth Certificate. Rule is made absolute accordingly. Direct Service is permitted.

Sd/-

10.01.2001 ( D.H.Waghela, J.)

(KMG Thilake)